

Conf cy *Munich*

DISPATCH VIA TELETAPE		CLASSIFICATION S E C R E T	DISPATCH SYMBOL AND NO. EGBA 64,125
TO INFO	CHIEF OF BASE, MUNICH COS/G, EE		HEADQUARTERS FILE NO. UNKNOWN FFN 150.3 CZECH IS
FROM	CHIEF OF BASE, BERLIN		DATE 10 JUNE 1960
SUBJECT	KAPOK UPHILL DIZTAG CART OPERATIONAL JAROSLAV ANTOS		RE: "43-3" -- (CHECK "X" ONE) MARKED FOR INDEXING XX NO INDEXING REQUIRED
ACTION REQUIRED	SEE PARA 2		INDEXING CAN BE JUDGED BY QUALIFIED HQ. DESK ONLY

REFERENCE(S)

EGMA 49595, 7 JUNE 1960

1. WHILE WE AGREE THAT EXECUTIVE ACTION AGAINST AN 'OLD PROFIT OF ANTOS' ILK DESERVES SERIOUS CONSIDERATION, WE SUBMIT THAT THERE ARE A NUMBER OF OPERATIONAL, LEGAL, AND POLITICAL REASONS MILITATING AGAINST APPREHENSION AT THIS TIME.--

A. OPERATIONAL-- ANTOS IS A SENIOR AND EXPERIENCED CIS STAFFER, WHO, DESPITE THE STIGMA OF A SWISS PNG, APPARENTLY CONTINUES TO BE FULLY TRUSTED BY HIS SERVICE. WITH A YOUNGER OFFICER, LESS VERSED IN THE INTRICACIES OF OPERATING IN THE WEST, WE MIGHT JUSTIFIABLY HOPE THAT PANIC AND INITIAL CONFUSION WOULD LEAD TO A CONFESSION AND/OR ASYLUM REQUEST. ANTOS, HOWEVER, IS ALMOST CERTAIN TO TAKE THIS IN STRIDE-- HE WILL BE IRATE, DENY EVERYTHING AND TAKE FULL ADVANTAGE OF HIS DIPLOMATIC STATUS TO ARRANGE A STRONG OFFICIAL PROTEST. WITH REGARD TO THE UPHILL OPERATION TO DATE, WE SUGGEST THAT THE CIS IS NOT LIKELY MUCH LONGER TO MAKE SUBSTANTIAL AGENT PAYMENTS IN RETURN FOR MARGINAL TAKE AND THAT THE OPERATION MAY BE ON THE VERGE OF MORE INTERESTING DEVELOPMENTS. WOULD NOT UPHILL BE WELL ADVISED TO CARRY THIS CASE A WHILE LONGER. ANTOS SHOULD REMAIN IN BERLIN FOR SOME TIME AND THE PROPOSED EXECUTIVE ACTION COULD BE RECONSIDERED AFTER MORE OPERATIONAL PROFIT HAS BEEN DERIVED FROM THE CASE AND BETTER EVIDENCE ON ANTOS COMPILED.

B. LEGAL-- UPHILL, OF COURSE, HAS NO ARRESTING AUTHORITY /NOR, FOR THAT MATTER, EVEN LEGAL STATUS/ IN WEST BERLIN. THE ARREST WOULD, THEREFORE, HAVE TO BE MADE BY THE WEST BERLIN POLICE, ACTING EITHER ON THE BASIS OF CONCLUSIVE EVIDENCE SUBMITTED BY UPHILL OR IN RESPONSE TO AN ALLIED ORDER CLAIMING THAT THE SECURITY OF ALLIED FORCES IN WEST BERLIN IS JEOPARDIZED. WHILE THE NECESSARY PRE-ARREST "HAFTBEFEHL" COULD CONCEIVABLY BE OBTAINED BY EITHER UPHILL OR, IF WE ARE TO BECOME DIRECTLY INVOLVED, THE AMERICAN ELEMENT, THE BURDEN OF PROOF WOULD NECESSARILY REST WITH THE REQUESTING AUTHORITY AND, UNLESS ANTOS IS ARRESTED LITERALLY "WITH THE GOODS," HIS CONVICTION ON MERE D/A TESTIMONY APPEARS MOST UNLIKELY. THE CASE, OF COURSE, IS EVEN MORE COMPLICATED BY THE FACT THAT ANTOS HAS /AND UNDOUBTEDLY WOULD TAKE FULL ADVANTAGE OF/ DIPLOMATIC STATUS AND IT STILL APPEARS UNCERTAIN THAT THE UPHILL AGENT WOULD EVEN BE WILLING TO TESTIFY. AS AN EXAMPLE OF THE TREMENDOUS LEGAL PROBLEMS ENCOUNTERED IN A CASE OF THIS TYPE, WE REFER YOU TO THE JOSEF CERMAK CASE /EGMA 53,526, 7 NOVEMBER 1958/ IN WHICH BOTH PRINCIPALS RESIDED IN WEST BERLIN, THE CZECH INTEL OFFICER DID NOT HAVE DIPLOMATIC STATUS, THE LOCAL POLICE ACTED IN RESPONSE TO A COMPLAINT FROM A WEST BERLIN RESIDENT ---- AND STILL CERMAK WAS RELEASED AND RETURNED TO CZECHOSLOVAKIA.

*150.3
Czech IS*

DECLASSIFIED AND RELEASED BY
CENTRAL INTELLIGENCE AGENCY
SOURCE METHOD EXEMPTION 3B2B
NAZI WAR CRIMES DISCLOSURE ACT
DATE 2008

CONTINUATION OF DISPATCH	CLASSIFICATION S E C R E T	DISPATCH SYMBOL AND NO. EGBA 64,125
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C. POLITICAL-- POST-ARREST KUCAGE PLAY WOULD APPEAR TO BE EFFECTIVE ONLY IF ANTOS' ESPIONAGE ACTIVITY CAN BE DEFINITELY ESTABLISHED. IF, AS WE PREDICT, AN AIR-TIGHT CASE CANNOT BE BUILT, SUCH PLAY IS LIKELY TO BACKFIRE. WITH WEST BERLIN ALREADY UNDER HEAVY ATTACK AS A CENTER OF ALLIED ESPIONAGE, THE CZECHS WOULD BE FOOLISH INDEED NOT TO USE AN ABORTIVE ANTOS ARREST AS FURTHER EVIDENCE FOR THIS ALLEGATION.

2. IN VIEW OF THE ABOVE, WE STRONGLY URGE THAT UPHILL BE DISCOURAGED FROM ATTEMPTING EXECUTIVE ACTION AT THIS TIME.

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TOT - 10 JUNE 60/1700

TT/4-168/FRA/166/WASH/, 151/MUNI/END OF EGBA 64,125

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